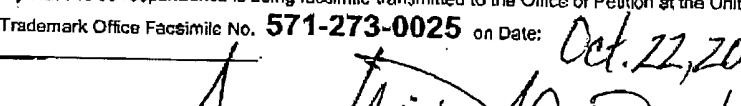


CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence is being facsimile transmitted to the Office of Petition at the United States Patent and Trademark Office Facsimile No. **571-273-0025** on Date: Oct. 22, 2004


Sean McDermott Signature

Sean McDermott Typed or Printed Name of Person Signing Certificate

FAX RECEIVED

OCT 22 2004

In re Application of:
Larry E. Moser et al.

Serial No.: 10/714,359

Filed: 11/14/2003

For: Device for Filling a Cigarette Tube with a
Metered Amount of Tobacco

CUSTOMER NO. 29855 OFFICE OF PETITIONS

Group Art Unit: 1731

Examiner: Dionne A. WALLS

Atty. Dkt. No.: 247-0039US

Confirmation No.: 3336

**PETITION TO WITHDRAW APPLICATION FROM ISSUE
PURSUANT TO 37 C.F.R. § 1.313(c)(2)
AFTER PAYMENT OF ISSUE FEE**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant received a Notice of Allowance for the above-referenced application on October 5, 2004, and timely paid the issue fee recently on October 11, 2004. However, Applicant has recently determined that it wishes to present additional claims in this application, particularly an increased number of dependent claims for those claims that have been allowed. As it would be difficult to add the dependent claims to (for example) a continuation application,¹

¹ This would be difficult if not impossible because the Applicant cannot re-present the allowed independent claims in a continuation application to add its dependencies because this would create a double patenting problem.

•WONG CABELLO LUTSCH RUTHERFORD & BRUCCULERI, LLP

Serial No.: 10/714,359
Petition to Withdraw From Issue

Applicant believes that withdrawal is justified, and is the most sensible route to follow under PTO rules.

Accordingly, Applicant hereby petitions to withdraw this application from issue pursuant to 37 C.F.R. § 1.313(c), and further submits a Request for Continued Examination (RCE), as is specifically made permissible under 37 C.F.R. § 1.313(c)(2). A new Amendment to the claims is also submitted herewith.

Applicant understands that a petition fee of \$130.00 is due pursuant to 37 C.F.R. § 1.131(a) and § 1.17(h). *Applicant authorizes this Office to charge such petition fee, and any other additional fees that may be required, to Deposit Account No. 501922*, referencing docket number 247-0039US.

Applicant called the Office of Petitions on October 20, 2004 to inquire as to the safest route for filing this petition and its associated papers, and was advised to fax file the same directly to the Office of Petitions at 571-273-0025.

Applicant respectfully requests that this petition be timely granted, that Applicant receive timely notification of such grant, and that the attached RCE and Amendment be sent to the Examiner in charge of this application for consideration and action.

Date:

CUSTOMER NO. 29855

Respectfully submitted,

Sean P. McDermott
Reg. No. 49,000

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